83 00138.2

83 00138.2

University of California, Berkeley
Institute of Governmental Studies
Library

[Billboard next to the Bay Bridge
Toll Plaza] / Michael B. Wilmar.

IGSL

INSTITUTE OF GOVERNMENTAL STUDIES LIBRARY
109 PHILOSOPHY HALL
UNIVERSITY OF CALIFORNIA
BERKELEY, CA 94720

Digitized by the Internet Archive
in 2026 with funding from
State of California and California State Library

https://archive.org/details/C123322477

8300138.2

STATE OF CALIFORNIA
EDMUND G. BROWN JR., Governor

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
30 VAN NESS AVENUE
SAN FRANCISCO, CALIFORNIA 94102
PHONE: 557-3686

July 19, 1982

INSTITUTE OF GOVERNMENTAL
STUDIES LIBRARY

JUL 26 1982

UNIVERSITY OF CALIFORNIA

Mr. Walter A. Abernathy
Executive Director
Port of Oakland
Jack London Square
Oakland, California

Dear Wally:

I am writing to express the BCDC staff's concern about the Port Commission's approval of the billboard next to the Bay Bridge Toll Plaza. Specifically, we can't understand the Port staff's assertion that the sign is "exempt" from the requirements of the California Environmental Quality Act. We think compliance with CEQA is particularly important in this case because the sign will seriously intrude on the maritime vista from this part of the Bay shoreline, and we do not think adequate consideration has been given to possible alternatives. Preparation of an environmental impact report would allow consideration of alternatives and provide an opportunity for more substantial public input than has been the case thus far.

It is not clear to us why the Port staff believes the sign is exempt from CEQA. From the newspaper and from informal conversations with your staff, it appears the staff believes erection of the sign is "ministerial" because only a City building permit is required. I didn't realize the Port, under the City Charter, needed any permits from the City, but assuming only a City building permit is needed, that doesn't make the Port's decision to put up the sign ministerial. The Port is a public agency and clearly had to exercise considerable discretion in deciding what kind of sign to put up, and how big and where the sign was to be. Under CEQA, discretionary decisions of public agencies are not ministerial.

Secondly, we seriously doubt that even the issuance of the City building permit is truly ministerial in this case. The Oakland Sign Code, with a few exceptions that we don't believe are applicable, prohibits the erection of signs that are primarily viewable from freeways. As we understand the Code, it requires every sign that might be primarily viewable from a freeway to be reviewed by a special three-person committee composed of the City's chief building officer, the Director of City Planning, and the City Traffic Engineer. Any decision of that committee is appealable to the City Council. This would seem to take the decision on the permit for this sign out of the realm of a ministerial act and make it clearly discretionary. That being the case, the City should also comply with CEQA.

(OVER)

It has also been suggested that the sign is "categorically exempt" under the State Resources Agency Guidelines. These, as you may know, permit certain small projects to be approved without either a negative declaration or an environmental impact report because the Secretary for Resources has determined that they will not have a significant effect on the environment. I would note that this argument is inconsistent with the argument that the project is ministerial, since only discretionary projects can be categorically exempt. More to the point, however, we have seen no indication that a determination has been made that this project is categorically exempt. This may be because the only category applicable would seem to be "Class 11: Accessory Structures." These are defined as the "construction or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to: (a) On-premise signs...." (Emphasis added.) A 60 by 20-foot billboard, 40 feet off the ground next to the Bay Bridge Toll Plaza can hardly be considered a "minor" structure. Nor do we think it can be considered "appurtenant to existing commercial, industrial, or institutional facilities" without severely torturing the plain meaning of those words since it is located well away from any buildings or other facilities.

I would add that there is also another section of the Guidelines which specifically excludes from Category 11, projects that "may impact on an environmental resource of...critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies." It also excludes from Category 11 an activity "where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." We think both exclusions might well apply to a sign of this size this close to the Bay.

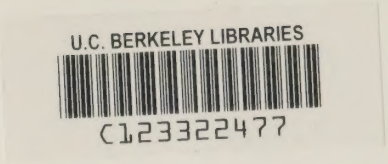
In closing, I want to emphasize that we have serious concerns about the size and location of this sign in relation to the Bay. Hundreds of thousands of Bay Area residents now enjoy a splendid maritime vista from the Toll Plaza. If the sign is built, it will simply overwhelm these unique views of the Bay and the Port's activities. This project needs much more thorough consideration and public debate than it has thus far received, and we urge the Port to comply with CEQA without delay. You should also be aware that the Commission will be considering this matter at its August 5th meeting, and a resolution is pending in which the Commission itself would make these same points. You or the City or both may wish to have a representative present to present your views.

Very truly yours,

MICHAEL B. WILMAR
Executive Director

cc: All Commissioners and Alternates
Oakland City Council
Richard Winney, Oakland City Attorney
Charles R. Roberts, Chief Engineer, Port of Oakland
Tom Clark, Deputy Port Attorney
Kathy Mikkelson, Deputy Attorney General

83 00138.2



INSTITUTE OF GOVERNMENTAL STUDIES LIBRARY
109 PHILOSOPHY HALL
UNIVERSITY OF CALIFORNIA
BERKELEY, CA 94720